

Application No. 10/668,409
Amendment Dated September 8, 2009
Reply to Office Action of August 11, 2009

Remarks:

Claims 1-45 were previously pending. By way of this Amendment, Applicant has cancelled claims 1-43 and 45 without prejudice or disclaimer, amended independent claim 44, and added new claims 46-59, such that claims 44 and 46-59 are presently pending, with claim 44 being independent.

Interview Summary

An in-person interview was held with Examiner Fields and Examiner Dass on August 19, 2009. Applicant's representative and the inventor were in attendance. Applicant sincerely appreciates the Examiners' comments and consideration during the interview. During the interview, examiner Dass commented that the claims pending prior to this amendment are potentially directed to patentably distinct subject matter and suggested that focusing the claims in this application and pursuing canceled subject matter in a continuation would be productive. In particular, Examiner Dass suggested focusing on claim 44 as a starting point. Prior art of record and possible amendments to the claims were discussed. It is applicant's understanding that the amendments now incorporated into the claims by this amendment were indicated to overcome the rejections set forth in the outstanding Office Action dated August 11, 2009.

Response to Office Action

In the last Office Action, the Examiner rejected claim 44 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2003/0004868 to Early in view of U.S. Patent Application Publication No. 2002/0152160 to Allen-Rouman and further in view of U.S.

Application No. 10/668,409
Amendment Dated September 8, 2009
Reply to Office Action of August 11, 2009

Patent Application Publication No. 2002/0152168 to Neofytides. Applicant respectfully submits that the prior art references of record do not teach or suggest each of the elements recited in amended independent claim 44.

As discussed with the Examiners during the interview, claim 44 is directed to paying for a monetary transaction from one of two accounts based on a threshold amount *of the monetary transaction itself*. In contrast, the prior art references, at most, are tied to a threshold amount of a credit limit of a credit card or an amount of money in an account.

For example, U.S. Patent Application Publication No. 2003/0004868 to Early discusses adjusting a credit limit for “credit accounts having an adjustable credit limit.” (¶ 0009). The adjusted credit limit is revised based on a minimum and maximum credit amount for the credit account. *Id.* There is no teaching or suggestion of selectively settling a commercial transaction from one of two accounts based on a monetary amount of the commercial transaction.

U.S. Patent Application Publication No. 2002/0152168 to Neofytides discloses transferring funds into or out of a user’s “stored value fund” if the amount of funds in the “stored value fund” is below or above a threshold amount. (See ¶ 0083). The transfer of funds into or out of the “stored value fund” is not dependent on a monetary amount of a commercial transaction, but rather an amount of money in a user account.

Applicant also respectfully submits that the Examiner’s interpretation of U.S. Patent Application Publication No. 2002/0152160 to Allen-Rouman is incorrect. In the Office Action dated August 11, 2009, the Examiner characterizes Allen-Rouman as disclosing “utilizing a second

account for settling the transaction.” (OA, p. 4). Applicant respectfully disagrees. Allen-Rouman only discloses, at most, paying for a transaction from a payor’s account, transferring the funds to a third-party, “middleman” account, and then transferring the funds from the third-party account to the payee. (See ¶ 0039, which refers to the third-party account as a “funds transfer server”; see also Abstract, which states that the third-party account “is not associated with either the first party or the second party.”). In sum, Allen-Rouman does not disclose two accounts from which payment can be selectively settled.

Examiner’s Comments Regarding Official Notice

In the last Office Action, the Examiner stated that Applicant’s attempt to traverse the Official Notice in the previous Office Action dated January 2, 2009, was unfounded. (OA, p. 13). Applicant respectfully submits that it did not attempt to traverse the Official Notice in its last Amendment dated May 4, 2009, and that it would not otherwise have been able to traverse because the Examiner did not provide the requisite identification of the recited elements of which he was taking Official Notice. In particular, in the Office Action dated January 2, 2009, the Examiner stated that he was rejecting the claims as unpatentable over Early in view of Allen-Rouman and further in view of Official Notice. (1.2.09 OA, p. 4). Further explanation of the Official Notice was not provided, and therefore, Applicant traverses any conclusion that a rejection based upon Official Notice has been established.

Application No. 10/668,409
Amendment Dated September 8, 2009
Reply to Office Action of August 11, 2009

Notwithstanding the above, it is Applicant's understanding that the Official Notice is now moot given the Examiner's rejections in the last Office Action. Should the Applicant's understanding be incorrect, further explanation is respectfully requested.

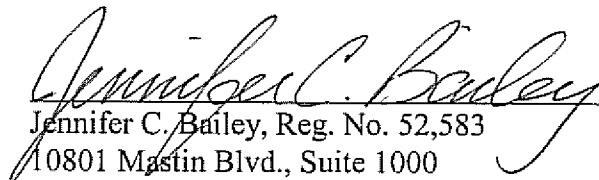
The remaining claims not discussed all depend directly or indirectly from the discussed independent claims and therefore, should be in a condition for allowance. Additionally, for example, Applicant respectfully traverses at least the rejections in the Office Action that Allen-Rouman teaches or suggests associating a payment account with a media service (Allen-Rouman teaches only using networks of a variety of types, not associating a payment account with a media service) or providing a guarantee wherein the guarantee is provided by a provider of mobile wireless services, a provider of media services, or a provider of payments processing services.

In view of this amendment and the remarks herein, Applicant respectfully submits that claims 44 and 46-59 are now in allowable condition and requests a Notice of Allowance. In the event of further questions, the Examiner is urged to call the undersigned. Any additional fee that might be due in connection with this application should be applied against our Deposit Account No. 19-0522.

Respectfully submitted,

HOVEY WILLIAMS LLP

By:


Jennifer C. Bailey, Reg. No. 52,583
10801 Mastin Blvd., Suite 1000
Overland Park, KS 66210
(913) 647-9050

(Docket No. 40385)

ATTORNEYS FOR APPLICANT